

IN THE CIRCUIT COURT OF THE COUNTY OF ST. LOUIS
STATE OF MISSOURI

JAMES DWANE MEYERS,)	
Plaintiff,)	
)	Cause No. 14SL-CC03881
v.)	
)	
RED ROOF INNS, INC.)	DIVISION 13
FMW RRI NC LLC)	
HAL SCHARFF)	
UNNA THOMAS)	JURY TRIAL
CITY OF MARYLAND HEIGHTS)	
JEFFREY SWATEK)	GREATER THAN \$25,000
DAVID DEVOUTON)	
NICK ANTHON)	
Defendants)	

**AMENDED PETITION FOR DAMAGES FOR UNLAWFUL EVICTION,
FORCEIBLE ENTRY AND DETAINER, VIOLATION OF CIVIL RIGHTS**

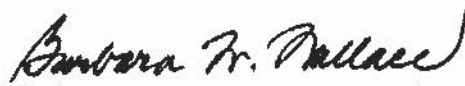
Comes now Plaintiffs, JAMES DWANE MEYERS, by their undersigned attorney, and,
for its cause of action against Defendants, states as follows:

1. Plaintiffs is a resident of Missouri, residing at 68 Mobile Drive Bridgeton,
MO 63044 located in St. Louis County.

2. Defendant RED ROOF INNS, INC ("Red Roof Inn") is a Delaware
corporation authorized to do business in Missouri with its principal place of business at
605 South Front Street Columbus Ohio 43215 and the licensor of the Red Roof Inn
located at 11837 Lackland Road Maryland Heights, MO 63043 ("Hotel").

3. Defendant FMW RRI NC LLC ("FMW") is a Delaware limited liability
company authorized to do business in Missouri with its principal place of business at c/o
Westsmont Hospitality Group, Inc. 5487 San Felipe St., Suite 4650 Houston, TX 77057

LEAVE TO AMEND GRANTED:



2/20/15

an was the licensee and operator of the Red Roof Inn located at 11837 Lackland Road Maryland Heights, MO 63043 ("Hotel") on November 16, 2012.

4. Defendant Hal Scharff was the General Manager of the Hotel on November 16, 2012.

5. Defendant Unna Thomas was an employee of the Hotel on November 16, 2012.

6. Defendant City of Maryland Heights is a Missouri political body with its principal place of business as 11911 Dorsett Road Maryland Heights MO 3043 formed under the name of City of Maryland Heights.

7. Defendant Officer Jeffrey Swatek is a police officer and employee of the City of Maryland Heights.

8. Defendant Officer David DeVouton is a police officer and employee of the City of Maryland Heights.

9. Defendant Officer Nick Anthon is a police officer and employee of the City of Maryland Heights.

10. Jurisdiction and venue of this court are proper in that Defendant Red Roof Inn licensed the Hotel located in this jurisdiction, Defendant FMW operated the Hotel located in this jurisdiction, Defendants Hal Scharff and Unna Thomas are both employees of the Hotel located in this jurisdiction, and that Officers Jeffrey Swatek, David DeVouton, and Nick Anthon are employees of the City Maryland Heights and the actions which led to this cause of action occurred at the Hotel in this jurisdiction.

11. On or about November 16, 2012 Plaintiff Meyers was an occupant of Room 112 of the Red Roof Inn located at 11837 Lackland Road Maryland Heights, MO

(the "Hotel") per a written agreement with Defendants RRI and/or FWM for the rental of Room 112 ("Lease").

12. Plaintiff Meyers rented Room 112 as his personal residence.

13. Per the terms of the Lease, Plaintiff was not to receive maid or room service.

14. On or about November 16, 2012, Officer Swatek received information from a police officer for the City of Creve Coeur that Plaintiff Meyers was being booked for Possession of Drug Paraphernalia, and that Plaintiff Meyers was being held by the police department for the City of Creve Coeur.

15. On or about November 16, 2012, the Officers Swatek, DeVouton, and Anthon of the Maryland Heights Police Department came to the Hotel and requested to search Plaintiff Meyers' room from the Hotel's Front Desk Clerk Unna Thomas.

16. At all relevant times, Defendants Swatek, DeVouton, and Anthon were acting under color of law and acted per the statutes, ordinances, regulations, policies, customs, and usages of the State of Missouri and its political subdivisions, more specifically, the City of Maryland Heights.

17. Officers Swatek, DeVouton, and Anthon, nor the Maryland Heights Police Department, had a search warrant for their request to search Plaintiff Meyers' residence.

18. Officer DeVouton contacted Defendant Hal Scharff, General Manager of the Hotel, by phone and Defendant Scharff told Officer DeVouton that Scharff wanted Plaintiff Meyers evicted from his room for "non-payment".

19. Officers Swatek, DeVouton, and Anthon, proceeded to the Plaintiff's Room 112 with Front Desk Clerk Unna Thomas and conducted a search of Room 112.

20. Officers Swatek, DeVounton and Anthon assisted Front Desk Clerk Unna Thomas with removing all of Plaintiff Meyers' possessions and personal property from Room 112 of the Hotel, some of which was stored elsewhere in the Hotel and some of which was taken to the City of Maryland Heights Police Department.

21. That upon Plaintiff Meyers return to his residence, he was denied access o his residence, and that some, but not all, of Plaintiff's possessions and personal property was returned to the Plaintiff.

22. That Plaintiff's denial to occupy his residence, Room 112 of the Hotel, since November16, 2012 continues through today and he was Plaintiff Meyers has been forced to locate elsewhere.

23. That all the Defendants, individually and in concert with the other Defendants, entered upon Plaintiff's residence in the Hotel with the intent to search Plaintiff's goods and personal property.

24. That all the Defendants, individually and in concert with the other Defendants, entered upon Plaintiff's residence in the Hotel with the intent to remove and/or carry away from Room 112 Plaintiff's goods and personal property.

25. That all the Defendants, individually and in concert with the other Defendants, entered upon Plaintiff's residence in the Hotel with the intent to terminate Plaintiff's rights to possession of his residence, Room 112.

26. That the removal of Plaintiff Meyers possessions and personal property and termination of his right to occupy Room 112 was performed without a search warrant or court order.

27. That the removal of Plaintiff Meyers possessions and personal property was removed without a court order caused economic damage and stress to the Plaintiff Meyers for his possessions and personal property not returned;

28. That the removal of Plaintiff Meyers right to possession of his residence without a court order caused

- (a) humiliation,
- (b) indignity,
- (c) disgrace,
- (d) stress,
- (e) economic damages.

29. That the conduct of all the Defendants, and each of them individually, was willful, malicious and/or performed with reckless indifferent to Plaintiff Meyer's property and constitutional rights.

30. In pursuit of his claim, Plaintiff Meyer is incurring reasonable attorney's fees, taxable costs, and non-taxable costs.

COUNT I – FORCIBLE ENTRY AND DETAINER

Comes now Plaintiff and for its cause of action against Defendants in Count I, states as follows:

31. Plaintiff restates paragraphs 1 through 30 as though said paragraphs were fully set forth herein.

32. Section 534.020 of the Revised Missouri Statutes prohibits a party from entering upon the land of another and "... putting out of doors or carrying away the goods of the party in possession, or by entering peaceably and then turning out by force ...".

33. The Defendants, collectively and individually, and acting in concert with the others Defendants, entered upon Plaintiff Meyers residence at the Hotel without permission, removed all of Plaintiff Meyers possessions and personal property, and denied Plaintiff Meyers from re-occupying his residence at the Hotel.

**COUNT II – VIOLATIONS OF CIVIL RIGHTS, 42 U.S.C, SECTION 1983
FIFTH AND FOURTEENTH AMENDMENTS - DUE PROCESS**

Comes now Plaintiff and for its cause of action against Defendants in Count II, states as follows:

34. Plaintiff restates paragraphs 1 through 33 as though said paragraphs were fully set forth herein.

35. The Fifth and Fourteenth Amendments to the United States Constitution prohibit illegal search and seizures and taking of personal property without due process of law.

36. The Defendants, collectively and individually, and acting in concert with the others Defendants, entered upon Plaintiff Meyers residence at the Hotel without applying for a valid search warrant or any other court order which would have permitted the Defendants to search Plaintiff's residence, remove any of Plaintiff Meyers possessions and personal property, or terminate Plaintiff Meyers right to occupying his residence at the Hotel.

37. The Defendants, collectively and individually, and acting in concert with the others Defendants, entered upon Plaintiff Meyers residence at the Hotel without applying for a valid order of execution, or any other court order which would have permitted the Defendants to removed any of Plaintiff Meyers possessions and personal property, or terminate Plaintiff Meyers right to occupying his residence at the Hotel.

**COUNT III – VIOLATIONS OF CIVIL RIGHTS, 42 U.S.C, SECTION 1983
FOURTH AMENDMENT – UNLAWFUL SEARCH AND SEIZURE**

Comes now Plaintiff and for its cause of action against Defendants in Count III, states as follows:

38. Plaintiff restates paragraphs 1 through 37 as though said paragraphs were fully set forth herein.

39. The Fourth Amendments to the United States Constitution prohibit illegal searches and seizures.

40. The Defendants, collectively and individually, and acting in concert with the others Defendants, entered upon Plaintiff Meyers residence at the Hotel without a valid search warrant, order of eviction, or any other court order which would have permitted the Defendants to removed any of Plaintiff Meyers possessions and personal property, or terminate Plaintiff Meyers right to occupying his residence at the Hotel.

COUNT IV – TRESPASSING

Comes now Plaintiff and for its cause of action against Defendants in Count IV, states as follows:

41. Plaintiff restates paragraphs 1 through 40 as though said paragraphs were fully set forth herein.

42. Plaintiff Meyers residence was Room 112 at the Hotel per his agreement with the Defendants RED ROOF INN and FMW and Plaintiff was granted exclusive possession of that part of the Hotel.

43. The Defendants, collectively and individually, and acting in concert with the others Defendants, entered upon Plaintiff Meyers residence at the Hotel without permission thereby trespassing on Plaintiff Meyers residence at the Hotel.

WHEREFORE, Plaintiffs JAMES DWANE MEYERS, pray for judgment for compensatory damages and punitive damages against Defendant Red Roof Inns, Inc., FMW RRI NC, LLC, Hal Scharff, Unna Thomas, City of Maryland Heights, Officer Jeffrey Swatek, Officer David DeVouton, and Officer Nick Anthon, in an amount in excess of \$25,000.00, the cost of this cause of action including but not limited to, attorney fees, and for such further relief as the Court deems just and proper.

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CERTIFICATE OF SERVICE

I, the undersigned, certify that the original pleading was signed by the attorney of record and a copy of the foregoing has been electronically served on all counsel of record via the

Missouri eFiling System, or U.S. mail for parties not registered for the Missouri eFiling System, on this 18th day of February, 2015:

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